

### 1. TERMS:

**Contract** means the agreement between the Principal and the Contractor and comprises the Order, these Terms and Conditions, Specifications and any Statement of Requirement;

**Contractor** means the party described as the Contractor on the Order;

**Contractor Personnel** means any employee, subcontractor, agent or representative of the Contractor;

**Commencement Date** means the earlier of a.) the date the Contractor provides the Principal with an Order Confirmation, b.) commencement of the Works; or c.) the Contractor agreeing to the Terms and Conditions in any other way;

**Order** means a written order or request for Works provided by the Principal to the Contractor in the form of a purchase order;

**Order Confirmation** means a written communication from the Contractor confirming acceptance of the Purchase Order;

**Principal** means Timberlink Australia Pty Ltd ABN 12 161 713 015;

**Service Level Agreements** means the service quality assurance (howsoever named) offered by the Contractor to the Principal detailed in the Order, on the Contractor's website and/or in other documentation provided to the Principal during or prior to commencement of the Term in relation to the standard of services to which the Contractor commits to meeting.

**Site** means the site or sites on which the Works are performed;

**Specifications** means specifications required in the performance of the Works in the Order or otherwise;

**Statement of Requirements** means a statement of specific requirements issued by the Principal in relation to an Order;

**Term** means the period from the Commencement Date until communication by the Principal to the Contractor of the Principal's acceptance of the Works in the Order unless terminated earlier in accordance with these Terms and Conditions;

**Terms and Conditions** means these terms and conditions;

**Works** means works, goods or services specifically referred to in the Order, Specifications and ancillary works and services necessarily required for the performance of the Contract, together with any agreed variations.

Headings are for convenience only and do not affect the interpretation of these terms and conditions.

### 2. CONTRACT

Where an Order or request for Works is issued to the Contractor, unless specified otherwise by the Principal, the Works shall be performed by the Contractor in accordance with the Order, these Terms and Conditions Specifications and any Statement of Requirements. This Contract contains the entire agreement between the parties in relation to the Order and supersedes all prior terms and conditions.

### 3. SUSPENSION AND FORCE MAJEURE

If either party is unable to perform any of its obligations under this Contract due to any cause beyond its reasonable control, such party's performance will be excused and the time for performance extended for the period of delay or inability to perform due to such occurrence, provided that the other party may terminate the Order on written notice where the delay extends beyond one month.

### 4. SPECIFICATIONS & INSTRUCTIONS

The Contractor must at all times comply with all laws, regulations, codes of practice all the Principal's relevant policies, any specifications and reasonable instructions issued by the Principal in relation to the Contract. The Contractor must not, without the prior written consent of the Principal, use at the Site any employee or former employee of the Principal. The Principal may withhold such consent at its absolute discretion. The Principal may on reasonable grounds, refuse entry to any Site to any Contractor Personnel and the Contractor shall comply with such refusal.

### 5. STATUS OF THE CONTRACTOR

Notwithstanding any other clauses in this Contract, the Contractor expressly acknowledges and agree that:

- a. it has agreed under the terms of this Contract to provide the Works in its capacity as an independent contractor;
- b. it is not an exclusive contractor for the Principal and that other contractors may be engaged to provide services similar to those being provided by the Contractor;
- c. nothing in this Contract shall be construed or have effect as constituting any relationship of employer and employee, agency, joint venturer or partnership for any purpose whatsoever as between the Principal and:
  - i. the Contractor; or
  - ii. the Contractor's Personnel for any purpose;
- d. except as is expressly provided for in this Contract, neither party is the agent of, nor has the power or authority to bind the other party;

- e. at all material times during the Term of this Contract it has and will exercise full control over its employees, agents, subcontractors, representatives or any other party employed or engaged by it to perform the Works;
- f. in respect of its employees, it will comply with and/or fulfill all its obligations as an employer whether statutory (eg. without limitation, payroll tax, superannuation guarantee, occupational health safety and welfare) or otherwise;
- g. it has the opportunity to seek its own independent legal advice before entering into this Contract and enters into this Contract out of its own volition and free from any inducement, coercion, oppression, representation or otherwise by the Principal.

### 6. OBLIGATIONS OF THE CONTRACTOR - The Contractor shall:

- a. retain or engage competent and appropriately experienced and qualified personnel reasonably necessary to provide the Works and be responsible at its own costs for ensuring that they all received the appropriate induction prior to commencing the Works;
- b. obtain and maintain all relevant authorisations, permits and licences required to do the Works which are not otherwise obtained by the Principal;
- c. perform and complete the Works and, subject to any conditions provided elsewhere in the Contract, provide all supervisory, labour, materials, plant, transport and temporary works that may be necessary;
- d. not vary the Works from the description in the Works order or the Specifications without prior written consent of the Principal;
- d. be responsible for the care of Works from the date of commencement until completion including the care, storage and protection of unfixed items and items provided by the Principal;
- e. provide, erect and maintain all barricades, fences, signs, lighting and temporary works necessary for the protection of the Works, other property and for the safety and convenience of the public;
- f. complete the Works to the satisfaction of the Principal with due expedition, without delay and within the time frame specified in the Order or such further time as agreed in writing by the Principal; and
- g. not vary the price of the Works from the price agreed or undertake Works which will incur additional fees or charges without the prior written consent of the Principal;
- h. if required by the Principal provide whatever evidence the Principal may reasonably require to demonstrate compliance with this clause 6;
- i. only use or reproduce the Principal's confidential information for the purpose of performance of its obligations under this Contract. 'Confidential Information' means all information relating to the business which is or has been disclosed by the Principal to the Contractor under or in connection with this Contract whether orally, electronically, in writing or otherwise, or learnt or acquired by the Contractor in the performance of this Contract.

### 7. QUALITY

The Contractor shall correct any defects in the Works at its own cost within 14 days of any notice in writing by the Principal requesting correction. Failing such correction, the Principal may correct such defects at the cost of the Contractor.

### 8. WARRANTY & INDEMNITY

- 8.1 Notwithstanding any other clauses in this Contract the Contractor warrants that it will exercise reasonable skill in carrying out the Works and that all Works carried out by it or any person or third party employed by it pursuant to this Contract shall be performed in a competent, careful, proper, diligent workmanlike and professional manner.
- 8.2 The Contractor warrants:
  - a. it has the expertise to perform the Works;
  - b. it has authority to supply/sell the materials/goods/services free from all encumbrances and the Principal will have clear title to the materials/goods and any deliverables deriving from the services upon delivery to the Principal's sites/premises or otherwise received by the Principal.
  - c. the Works will be carried out within the agreed time and without undue delay;
  - d. the Works will be performed in a proper and professional manner and in accordance with good operating practices, the Order and the Contract, as varied if varied;
  - e. that the services and deliverables, or the use of them by the Principal, will not infringe the intellectual property rights of any person;
  - f. all materials/goods used in the performance of the Works or provided to the Principal as part of the Works will:
    - i. conform with the description in the Order, related specifications and Statement of Requirement;
    - ii. be safe, of good merchantable quality and be fit and suitable for the known purpose for which they are used or provided;
    - iii. be new unless otherwise accepted in writing by the Principal.

### 9. INDEMNITY AND LIMITATION OF LIABILITY

- 9.1 The Contractor shall indemnify and keep indemnified the Principal its employees and agents and hold each of them harmless from and against:
- any liability, loss or damage suffered by the Principal or any third party due to a breach of these terms and conditions or any unlawful or negligent act or omission by the Contractor including loss or damage resulting from injury (including death) to any person including the Contractor, its employees and agents;
  - all fines or statutory penalties imposed, in connection with the Works agreed to be performed by the Contractor its employees and agents that is the subject of this Contract, whether at common law or under any statute where those fines or statutory penalties are imposed due to a breach of these terms and conditions or any unlawful or negligent act or omission by the Contractor or its employees or agents; provided that liability under the indemnity given by this clause will be reduced proportionately to the extent that a breach of these terms and conditions or any unlawful or negligent act or omission by the party entitled to indemnity contributed to any such liability, loss or damage.
- 9.2 Notwithstanding anything contained herein, whether express or implied, in no circumstances whatever will the Principal be liable to the Contractor or any of the Contractor's Personnel for damages for loss of actual or anticipated revenue, income or profits or any indirect, consequential or penal damages arising out of or in respect of this Agreement whether or not such loss was foreseeable.

### 10. SERVICE LEVELS

- 10.1 Contractor must provide any component of the Works that involve services in accordance with the Service Level Agreement and provide reports to the Principal on progress and performance against the Service Level Agreement upon the Principal's request.
- 10.2 If Contractor does not comply with clause 10.1 during a calendar month, then (without limiting Principal's other rights or remedies), the price for that month will be reduced by any applicable service level credits set out in the Service Level Agreement. If Contractor does not comply with clause 10.1 on more than 3 occasions during the Term, then (without limiting Principal's other rights or remedies), the Principal may immediately terminate this Contract.

### 11. TERMS OF PAYMENT

- 11.1 Unless agreed otherwise, payment will be made within 30 days of the last day of the month in which an invoice is received by the Principal but subject always to:
- the price being in accordance with this Contract; and
  - all Works, materials, goods and equipment being received and accepted by the Principal in accordance with the Contract.
- 11.2 Notwithstanding clause 11.1, the Principal may wholly or partly suspend payment pursuant to this Contract where the Contractor is in breach of the Contract.
- 11.3 If this Contract is terminated due to a breach by the Contractor, then Principal may without limiting any other right or remedy, recover from the Contractor (as a debt), the amount of any payments made to the Contractor under this Contract for any services or deliverables not provided, delivered or accepted, together with interest calculated from the payment date to the date of refund at the 30 day Australian Treasury Bill rate plus 5%.

### 12. PUBLIC LIABILITY INSURANCE

- The Contractor shall at all times take out and maintain a public liability insurance policy with a reputable insurer for a minimum sum of \$20 million payable for any one occurrence. The Contractor's insurer must be provided with a copy of this Contract prior to taking out the insurance. The policy must cover all matters arising out of or in relation to the provision of the Works as detailed in this Contract including the indemnity provided in this Contract, specifically:
- all sums which the Contractor becomes legally liable to pay by way of compensation;
  - all costs awarded against the Contractor in respect of personal injury or property damage happening during the period of insurance and caused by an occurrence within the territorial limits in connection with the Contractor's business.

The definition of "Personal Injury" and "Property Damage" in the policy wording must not exclude consequential loss and the policy must include a Principal's indemnity extension. The Contractor must not commence the Works until confirmation of such policy of insurance is given to the Principal. The Contractor must not do anything that may render the Contractor's insurance policy void and must annually provide the Principal with a public liability certificate of currency and, if requested, a copy of the policy.

### 13. SUB CONTRACTING AND ASSIGNMENT

The Contractor shall not assign, transfer, mortgage or dispose of any of its rights under this Contract or sub contract the Works without the written permission of the Principal.

### 14. OCCUPATIONAL HEALTH, SAFETY & WELFARE

- The Contractor shall, in the performance of the Works, comply with all occupational health and safety and other laws and regulations relevant to the Works and will ensure its employees comply with all the relevant regulations, improvement notices, prohibition notices and codes of practice.
- The Contractor shall comply with all reasonable directions and procedures relating to security and occupational health, safety & welfare as required by the Principal when Works are undertaken at premises or facilities of the Principal.
- The Contractor agrees to immediately notify the Principal of any incident arising from undertaking the Contract including those involving the public.

### 15. WORK COVER – The Contractor shall:

- ensure that it is registered as an employer under the relevant WorkCover legislations as amended and that it pays all levies due thereunder in respect of its employees engaged in or about the Works.
- to the extent permissible at law and without limiting the Principal's own obligation under the relevant WorkCover legislations, indemnify the Principal in respect of any actions, claims, demand, suit or proceedings made by an employee of the Contractor brought in connection with the relevant WorkCover legislations as amended.

### 16. ENVIRONMENT

- 16.1 The Contractor shall, at all times and at its own expense, maintain the Site and work area in a clean and tidy condition and shall ensure that all chemicals, waste oils, lubricants, drums, cartridges, waste materials and hazardous substances (collectively "Chemicals") utilized by the Contractor are contained and promptly removed from site and disposed of in a manner in accordance with the relevant State laws. Under no circumstances is any dumping of Chemicals, is permitted on any land owned and/or operated and/or managed by the Contractor or any related organization.
- 16.2 The Contractor shall at all times, comply with any environmental guidelines, restrictions or conditions governing the Principal's operation and/or the Contractor in the provision of the Works.

### 17. TERMINATION

- 17.1 The Principal may terminate this Contract where the Contractor:
- commits a substantial or fundamental breach of the Contract, including a breach of warranty; or
  - fails, within 14 days of delivery of the notice, to rectify a breach of the Contract of which the other party has given notice in writing specifying the breach and requiring it to be rectified.
- 17.2 The Contractor may terminate this Contract where the Principal:
- commits a substantial or fundamental breach of the Contract; or
  - fails to pay an invoice within 60 days of the date for payment, provided there is no genuine dispute in relation to the invoice.

### 18. MODERN SLAVERY

- 18.1 Contractor represents, warrants and undertakes that in the course of operating any of its business (including its performance of this Contract), Contractor and its operations will:
- comply with all such laws and policies in relation to the Modern Slavery Act 2018 (Cth) if applicable to the Contractor,
  - have processes to review its risks of Modern Slavery practices in operations and supply chains of the Contractor,
  - have processes to ensure the Contractor conducts its business in alignment with the principles and objectives of laws in relation to Modern Slavery, and
  - comply with Principal's Supplier Code of Conduct located on its website.
- 18.2 On request by Principal, Contractor must promptly and accurately complete periodical questionnaires relating to the sources of its products, materials and business practices and compliance with such laws, processes, policies, codes and objectives.
- 18.3 **'Modern Slavery'** means conduct which would constitute an offence under the Modern Slavery Act 2018, and this includes but is not limited to the trafficking of persons, illegal forms of child labour, slavery, forced labour, deceptive recruiting, debt bondage or offences involving non-citizens working in Australia without the correct visa.